IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT
THE HON'BLE SHRI JUSTICE R.SUBHASH REDDY
WRIT PETITION No. 13824 of 1996

Dated 14th November, 2006

Between
N.Mallikarjuna Reddy and another.

… Petitioner.

And

The Government of Andhra Pradesh,
Represented by its Chief Secretary,
Secretariat Buildings, Hyderabad and others.

…

Respondents.

ORAL ORDER:

In this writ petition, the petitioners questioned the validity of acquisition of the lands of the petitioners to an extent of Ac.3.33 cents in Sy.No. 824/3C1 situated at Vegurukandriga, Hamlet of Veguru, Kovur Mandal, Nellore District.

People belonging to weaker sections, particularly, scheduled caste of Vegurukandrika village of Kovur Mandal have applied to the Mandal Revenue Officer, Kovur for allotment of house sites. After conducting necessary enquiry, an extent of Ac.3.33 cents of land in Survey No. 824/3C1 was identified for acquisition and necessary notification was issued under Section 4 (1) of the Land Acquisition Act and the same was published in the District Gazette on 12.1.1996. Thereafter declaration under Section 6 of the Act was published on 25.1.1996. When the award was to be passed, the

petitioners approached this court by filing the present writ petition.

It is submitted by the learned counsel for the petitioners that there are other Government lands available for acquisition for providing house sites and having regard to the purpose of acquisition, it cannot be said that it is of urgent nature for invocation of power under Section 17 of the Land Acquisition Act, 1894 by dispensing with the enquiry under Section 5-A of the Act. Moreover, they are small farmers.

In the counter-affidavit filed on behalf of the official respondents, the allegation that the petitioners are small farmers is denied. Further, it is stated that the parents of landowners have Ac.5.00 of dry land each and therefore, they are not small farmers. It is also stated that before the Mandal Revenue Officer, the petitioners have expressed their willingness to part their land for the purpose of acquisition for providing house sites to the scheduled caste members.

The ground raised by the petitioners that they are small farmers is denied in the counter affidavit by stating that the parents of the petitioners are holding land to an extent of Ac.5.00 each. But, the said averment is not controverted by the petitioners by filing any reply. In that view of the matter, the plea of the petitioners that they are small farmers and the respondents ought not to have chosen their land for acquisition cannot be acceded to.

With regard to the plea of the petitioners that having regard to the purpose of acquisition being allotment of house sites to the scheduled castes, there is no necessity of invoking urgency clause, this court in **S.Yedukondalu v. District Collector, West Godavari District**[1], after elaborately considering the matter rejected the plea of the petitioners therein that acquisition for providing house sites to weaker sections is not of emergent nature to dispense with enquiry

under Section 5-A of the Land Acquisition Act, 1894,and, I am also of the same opinion and said contention in this case is also liable to be rejected.

Even the plea of the petitioners with regard to availability of alternative government land cannot be accepted in the absence of any material placed before this Court with regard to the said land and in view of the denial of the same by the respondents in the counter affidavit.

No other ground has been urged by the petitioners.

In that view of the matter, I do not find any infirmity in the acquisition proceedings, which warrant interference by this court in exercise of its jurisdiction under Article 226 of the Constitution of India.

The writ petition, which is devoid of any merit, is dismissed. No costs.

14.11.2006

R.SUBHASH REDDY, J.

VR

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[1] 2006(5) ALT 818